



PATENT
P56942

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

IL-DONG PARK et al.

Serial No.: 10/669,747

Examiner: MAI, TRI M.

Filed: 25 September 2003

Art Unit: 3727

For: PACKING CRATE

PETITION UNDER 37 C.F.R. §1.181

Mail Stop: Petition

Commissioner for Patents

P.O.Box 1450

Alexandria, VA 22313-1450

Sir:

Applicant respectfully petitions from the incomplete non-final Office action

(Paper No. 20050904) mailed on 9 September 2005, as reasons therefor, states that:

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Date: 10/27/05

I.D.: REB/sb

STATEMENT OF FACTS

1. On 17 November 2004, a first Office action (Paper No. 20041112) was mailed. In the PTO-892 form attached to Paper No. 20041112, twelve (12) U.S. patent references were cited.
2. On 31 May 2005, a restriction requirement (Paper No. 20050524) was mailed. In Paper No. 20050524, no reference was cited.
3. On 9 September 2005, a non-final Office action (Paper No. 20050904) was mailed.
4. A form PTO-892 citing five (5) U.S. patent references was attached to Paper No. 20050904.
5. In paragraph 15 on page 6 of Paper No. 20050904, the Examiner rejected claims 1, 2, 3, 5, 6 and 11-21 under 35 U.S.C. §103(a) as being unpatentable over Walter (U.S. Patent No. 1,449,467) in view of either Rossman (U.S. Patent No. 2,954,913) or Stollberg et al. (U.S. Patent No. 3,850,362).
6. The Stollberg et al.'362 reference is not set forth in the PTO-892 form attached to Paper No. 20050904.

REMARKS

Stollberg et al.'362 is cited in the PTO-892 form attached neither to the first Office action (Paper No. 20041112) nor to the non-final Office action (Paper No. 20050904), and no Information Disclosure Statements were filed by Applicant in this application.

This is to say, the non-final Office action (No. 20050904) is incomplete under 37 C.F.R. §1.104 (and *Manual of Patent Examining Procedure* §707.05) in that, the claims of the application were rejected based upon Stollberg et al.'362 which is not made of record in the application.

Although current Office practice is not to provide copies of U.S. patents or U.S. patent publications with Office communications, and even though Examiner did indicate the patent number of the Stollberg et al.'362 reference that was being relied upon in the Office action, the Examiner did not list the Stollberg et al.'362 reference on the citation of art, that is PTO-892, which accompanied the action. It is submitted, therefore, the non-final Office action (Paper No. 20050904) mailed on 9 September 2005 was deficient.

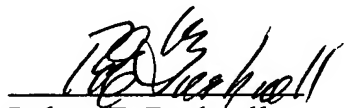
Given that the error was brought to the attention of the Office, in accordance with MPEP §710.06, the time period for response should be reset and restarted with the re-mailing of the Supplemental Notice of references Cited (Form PTO-892).

RELIEF REQUESTED

In view of the above, the Commissioner is respectfully requested to direct the Examiner to:

- A. Issue a Supplemental non-final Office action with a supplemental PTO-892 form citing the Stollberg et al.'362 reference (the publication number, publication date, and the name of the applicant);
- B. Re-start the period for response to expire not less than three (3) months from the date on which the Supplemental Office action and supplemental PTO-892 form citing the Stollberg et al.'362 reference are provided to Applicant by the Examiner; and
- C. Grant such other and further relief as justice may require.

Respectfully submitted,



Robert E. Bushnell,
Attorney for the Applicant
Registration No.: 27,774

1522 "K" Street N.W., Suite 300
Washington, D.C. 20005
(202) 408-9040

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